S.B. CIVIL WRIT PETITION NO. 2778/2004

Mahendra Vaishnav Vs. Raj. Non Govt. Education Tribunal & Ors.

DATE OF ORDER :: 7.3.2007

HON'BLE MR. GOVIND MATHUR, J.

Mr. Mukesh Rajpurohit, for the petitioner.
Mr. M.R. Singhvi, for the respondents.

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By this petition for writ a challenge is given to the judgment and order dated 31.7.2003 passed by the Rajasthan Non-Governmental Educational Tribunal, Jaipur rejecting the appeal preferred by the petitioner giving challenge to the order dated 9.4.2001, whereby the employer communicated the petitioner about acceptance of his resignation from service under a letter of resignation dated 11.1.2001.

The case of the petitioner is that in the communication dated 11.1.2001 a specific date for discontinuing from service as a consequent to resignation was mentioned as 10.2.2001 but the petitioner was allowed to continue in service thereafter due to some agreement between the petitioner and the management, as such the acceptance of resignation from a subsequent date is erroneous.

Heard.

Learned Tribunal after considering the entire evidence

available on record and by taking into consideration the contentions raised by the parties reached at the conclusion that the managing committee of the institution on 16.3.2001 by the resolution No.2 accepted the resignation of the petitioner from service and accordingly the communication dated 9.4.2001 was issued. The petitioner prior to that never withdrew the intent of resignation. While giving challenge to the order impugned it is contended by learned counsel for the petitioner that the Tribunal failed to appreciate that the fact about continuation of the petitioner in service after 10.2.2001 itself establishes that he was not intending to press his resignation from service after the date aforesaid.

I do not find any force in the contention so raised. It is true that in the letter dated 11.1.2001 the petitioner mentioned that his resignation be accepted w.e.f. 10.2.2001 but what appears is that the date 10.2.2001 was mentioned in the letter dated 11.1.2001 as a notice period of one month. It is not in dispute that prior to 10.2.2001 or even up to 9.4.2001 the petitioner did not withdraw the letter of resignation or shown any intention to do so. The Tribunal, therefore, rightly held that prior to 9.4.2001 there was no information available with the employer that the petitioner was intending to withdraw his letter for resignation.

I do not find any error in the judgment impugned which may warrant interference of this Court under Articles 226 and 227 of the Constitution of India. Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR),J.

J.Goyal